

## Notice of Allowability

Application No.

09/458,415

Examiner

Jila M. Mohandesi

Applicant(s)

GILLESPIE, KEVIN

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to SAPB 12/05/2006.
2. ☐ The allowed claim(s) is/are 1-4, 6-8 and 48-76.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 02-09-07
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
**JILA M. MOHANDESI**  
**PRIMARY EXAMINER**

### **EXAMINER'S AMENDMENT**

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action in view of the Supplemental appeal brief filed December 05, 2006 is persuasive and, therefore, the finality of that action is withdrawn.
2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with applicant's attorney Mr. Brett A. Krueger on February 09, 2007.

The application has been amended as follows:

Claim 5 was cancelled.

In claim 6, line 1 "claim 5" was changed to - - claim 1 - - to correct dependency of the claim.

In claim 7, line 1 "claim 5" was changed to - - claim 1 - - to correct dependency of the claim.

In claim 1, in line 2, the word "and" was deleted and after line 4, the following lines were added, - - and wherein the outer member includes an intermediate region, an intermediate member being located in the intermediate region of the outer member, between the outer member and the inner member, wherein the intermediate member spans substantially the length of the outer member and has a softer durometer than the outer member; - - to better define over the prior art.

In claim 48, line 4, after the phrase " vertical plane; ", the phrase - - wherein the outer member includes an intermediate region, an intermediate member being located in the intermediate region and wherein the intermediate member spans substantially the length of the outer member and has a softer durometer than the outer member; - - was added to better define over the prior art.

***Drawings***

3. The drawings were received on 09/14/2004. These drawings are approved for entry.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jila M Mohandesi  
Primary Examiner  
Art Unit 3728

JMM  
February 09, 2007



Attorney's Docket No.: 06129-156001

3728  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Kevin H. Gillespie  
Serial No. : 09/458,415  
Filed : December 10, 1999  
Title : SHOE OUTSOLE

Art Unit : 3728  
Examiner : Anthony D. Stashick

MAIL STOP PGPUB-DRAWINGS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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TRANSMITTAL OF AMENDED DRAWINGS

Enclosed is one sheet of amended drawings for the application with a change indicated in red. Also enclosed is a clean copy of FIG. 3 with the proposed change made.

In an office action mailed June 15, 2004, the Examiner pointed out that reference numeral 54' does not appear in the specification. Reference numeral 54 was erroneously transcribed as 54' when the formal drawings were prepared. This error is corrected by the attached amendment.

Applicant notes that the other issues raised in the June 15, 2004 office action are addressed in a Supplemental Appeal Brief that has been separately filed.

Applicant submits that no new matter is introduced and requests approval of the amended drawing.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

September 14, 2004  
Date of Deposit

Darlene J. Morin  
Signature

Darlene J. Morin  
Typed or Printed Name of Person Signing Certificate

Dwg approved for entry.  
02-09-07